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Carol M. Palmore  
Secretary

August 27, 2001

**MEMORANDUM**

**PERSONNEL MEMO 01 - 09**

**TO:** Cabinet Secretaries  
Agency Heads  
Personnel Executives  
Payroll Officers

**FROM:**

  
Carol M. Palmore, Secretary

**SUBJECT:** Overtime Reporting

As a result of the recent restrictions on overtime, I thought it might be a good idea to remind everyone of the basic rules with respect to overtime reporting to ensure that we all fully comply with the federal Fair Labor Standards Act.

The following guidelines **MUST** be followed in order to ensure compliance:

1. The Fair Labor Standards Act (FLSA) requires employers to maintain accurate records with respect to overtime worked. Overtime, for purpose of complying with the Act, is defined as hours worked in excess of 40 in a workweek. In our case, the compensation may be in the form of pay or compensatory time depending on the status, and in some cases the preference, of the individual employee. All hours worked, including all compensatory time (hours between normal work hours and 40 hours) and overtime must be recorded on the official time sheet. Employers are specifically prohibited from allowing, and employees are specifically prohibited from keeping, a separate set of books for overtime.



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2. The FLSA requires the employer to compensate employees for all hours of overtime worked. The U.S. Department of Labor advises that any labor, authorized or not, with or without the employer's knowledge, is compensable. If you do not want an employee to work overtime, you must direct the employee not to work and take appropriate disciplinary action if an employee fails to follow the directive.
3. Although agencies are permitted to utilize flexible work schedules, as described under 101 KAR 2:095, Section 2, agencies are not allowed to carry time from one week to the next or average time over more than one workweek in order to avoid the payment of overtime. For example, you cannot require an employee to work 60 hours in one week of the pay period and then 20 hours in the following week and come up with an average hours worked of 40 per week and avoid the payment of overtime.

Please be mindful of the requirements of the FLSA and make sure all supervisors and managers in your agency are in total compliance.

If you have questions, you may contact Commissioner Herb Sheeting in the Personnel Cabinet at (502) 564-2428.